

JS 44 (Rev. 12/07, NJ 5/08)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

LENESE ROGERS

DEFENDANTS

NCO FINANCIAL SYSTEMS, INC.

(b) County of Residence of First Listed Plaintiff

County of Residence of First Listed Defendant

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED

Craig Thor Kimmel, Esquire
Kimmel & Silverman, P.C.
30 E. Butler Pike
Ambler, PA 19002
(215) 540-8888

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|--|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Med Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. SECTION 1692

Brief description of cause:
Fair Debt Collection Practices Act

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S)

(See instructions):

JUDGE

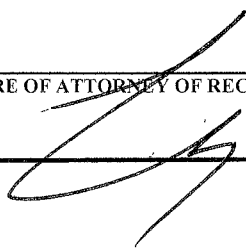
DOCKET NUMBER

Explanation:

DATE

SIGNATURE OF ATTORNEY OF RECORD

04/12/12



UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 7471 Manistique Dr., Colorado Springs, CO 80923

Address of Defendant: 507 Prudential Rd., Horsham PA 19044

Place of Accident, Incident or Transaction: _____
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases 15 U.S.C. §1692
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Craig Thor Kimmel, counsel of record do hereby certify:
☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
☐ Relief other than monetary damages is sought.

DATE: 04/12/12 _____
Attorney-at-Law

57100 _____
Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 04/12/12 _____
Attorney-at-Law

57100 _____
Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Lenese Rogers
v.
NCO Financial Systems, Inc.

CIVIL ACTION

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ☒ (X)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

<u>04/12/12</u>	<u>Craig Thor Kimmel</u>	<u>Lenese Rogers</u>
Date	Attorney-at-law	Attorney for
<u>215 540 8888</u>	<u>817 788 2864</u>	<u>kimmel@creditlaw.com</u>
Telephone	FAX Number	E-Mail Address

IN THE UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

LENESE ROGERS,

Plaintiff

v.

NCO FINANCIAL SYSTEMS, INC.,

Defendant

)

)

)

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Case No.:

COMPLAINT AND DEMAND FOR
JURY TRIAL

(Unlawful Debt Collection Practices)

COMPLAINT

LENESE ROGERS (“Plaintiff”), by and through her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against NCO FINANCIAL SYSTEMS, INC. (“Defendant”):

INTRODUCTION

1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (“FDCPA”), which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States.

3. Defendant conducts business and has its principal office in the Commonwealth of Pennsylvania, and therefore, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(1).

PARTIES

5. Plaintiff is a natural person residing in Colorado Springs, Colorado 80923.

6. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. § 1692a(3).

7. Defendant is a national debt collection company with its corporate headquarters located at 507 Prudential Road in Horsham, Pennsylvania, 19044.

8. Defendant is a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6), and repeatedly contacted Plaintiff in an attempt to collect a debt.

1 9. Defendant acted through its agents, employees, officers, members,
2 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,
3 representatives, and insurers.
4

5
6 **FACTUAL ALLEGATIONS**

7 10. At all relevant times, Defendant was attempting to collect an alleged
8 consumer debt from Plaintiff.
9

10 11. The alleged debt at issue, which was a Capital One credit card, arose
11 out of transactions, which were primarily for personal, family, or household
12 purposes.
13

14 12. Beginning in November 2011, and continuing through March 13,
15 2012, Defendant repeatedly and continuously contacted Plaintiff on her home and
16 cellular telephones in an attempt to collect a consumer debt.
17

18 13. Plaintiff received phone calls and voicemail messages from Defendant
19 on a number of occasions from the following phone numbers: (888) 899-6028 and
20 (877) 252-4534, which the undersigned has confirmed are phone numbers for
21 Defendant.
22

23 14. Defendant placed repeated calls to Plaintiff's home and cellular
24 telephones almost every day, causing Plaintiff to receive, on average, two (2) to
25 four (4) collection calls a day.

1 15. In addition to calling Plaintiff on her home and cellular telephones,
2 Defendant would also leave voicemail messages on Plaintiff's cellular telephone
3 stating, "This is an important message for Lenese Rogers. This is Bob Mattucci
4 from NCO Financial. We are a debt collector attempting to collect a debt. Please
5 return my call at (888) 899-6028 and refer to ID Code IQ4200."

7 16. Within five days of its initial communication with Plaintiff,
8 Defendant failed to send Plaintiff written notification advising her of her rights to
9 dispute the debt and/or request verification as well as providing her with the name
10 of the creditor and the amount of the debt.
11

12 17. As a result, Plaintiff did not know the amount of the debt Defendant
13 was seeking to collect.
14

15 18. Then, on one occasion, Plaintiff spoke with Defendant's collector,
16 Bob Mattucci (hereinafter "Collector Mattucci").
17

18 19. Collector Mattucci claimed that Plaintiff owed \$4,379.00 to Capital
19 One, but that he would accept \$3,600.00 that day if she paid in full.

20 20. Plaintiff informed Collector Mattucci that she could not afford to pay
21 that amount.
22

23 21. Collector Mattucci then claimed he would accept \$3,200.00 that day if
24 she paid in full.

25 22. Once again, Plaintiff informed Collector Mattucci that she could not

1 afford to pay that amount.

2 23. Collector Mattucci told Plaintiff that, if she would agree to the terms
3 today, he would accept \$200.00 every other week until she paid off the \$3,200.00.
4

5 24. The three different amounts were confusing to Plaintiff, as she did not
6 know how much was actually owed on the alleged debt.

7 25. Plaintiff asked Collector Mattucci why she have not received anything
8 in writing from Defendant setting forth the amount of the debt as well as to whom
9 the debt was owed.
10

11 26. Collector Mattucci was unable to provide Plaintiff with any
12 explanation for not having received anything in writing from Defendant.
13

14 27. Most recently, on March 13, 2012, Defendant contacted Plaintiff in its
15 attempts to collect a debt.

16 28. Defendant's continuous and repeated calls to Plaintiff were made with
17 the intention of annoying, abusing, and harassing her.
18

19 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES**
20 **ACT**

21 29. In its actions to collect a disputed debt, Defendant violated the
22 FDCPA in one or more of the following ways:
23

24 **COUNT I**
25

1 30. Defendant's conduct, detailed in the preceding paragraphs, violated
2 15 U.S.C. §§1692d and 1692d(5).

3
4 a. Section 1692d of the FDCPA prohibits debt collectors from
5 engaging in any conduct the natural consequences of which is to
6 harass, oppress or abuse any person in connection with the
7 collection of a debt.

8
9 b. Section 1692d(5) of the FDCPA prohibits debt collectors from
10 causing a telephone to ring or engaging any person in telephone
11 conversation repeatedly or continuously with the intent to annoy,
12 abuse, or harass any person at the called number.

13
14 c. Defendant violated §§1692d and 1692d(5) of the FDCPA when it
15 caused Plaintiff's telephone to ring almost everyday, calling at her
16 between two (2) to four (4) times each day between November
17 2011 and March 2011, with the intent to annoy, abuse and harass
18 Plaintiff.
19

20 **COUNT II**

21 36. Defendant's conduct, detailed in the preceding paragraphs, violated 15
22 U.S.C. §1692f.
23

24 a. Section 1692f of the FDCPA prohibits a debt collector from using
25 unfair or unconscionable means to collect or attempt to collect any

1 debt.

2 b. Defendant violated §1692f of the FDCPA when it failed to provide
3 Plaintiff with anything in writing regarding the amount of the debt
4 and instead set forth varying amounts which it would accept as
5 full payment on the debt.
6

7 **COUNT III**

8
9 37. Defendant's conduct, detailed in the preceding paragraphs, violated 15
10 U.S.C. §1692g(a).

11 a. A debt collector violates §1692g(a) of the FDCPA by failing to
12 send to the consumer, within five days after its initial
13 communication with a consumer in connection with the collection
14 of a debt, a written notice containing: (1) the amount of the debt;
15 (2) the name of the creditor to whom the debt is owed; (3) a
16 statement that unless the consumer, within thirty days after receipt
17 of the notice, disputes the validity of the debt, or any portion
18 thereof, the debt will be assumed to be valid by the debt collector;
19 (4) a statement that if the consumer notifies the debt collector in
20 writing within the thirty-day period that the debt, or any portion
21 thereof, is disputed, the debt collector will obtain verification of
22 the debt or a copy of a judgment against the consumer and a copy
23
24
25

1 of such verification or judgment will be mailed to the consumer by
2 the debt collector; and (5) a statement that, upon the consumer's
3 written request within the thirty-day period, the debt collector will
4 provide the consumer with the name and address of the original
5 creditor, if different from the current creditor.
6

- 7 b. Here, Defendant violated §1692g of the FDCPA by failing to send
8 written notification, within five (5) days after its initial
9 communication with Plaintiff, advising Plaintiff of her rights to
10 dispute the debt or request verification of the debt or providing her
11 with the name of the original creditor and the amount of the debt.
12

13 WHEREFORE, Plaintiff, LENESE ROGERS, respectfully prays for a
14 judgment as follows:
15

- 16 a. All actual compensatory damages suffered pursuant to 15
17 U.S.C. §1692k(a)(1);
18
19 b. Statutory damages of \$1,000.00 for the violation of the FDCPA
20 pursuant to 15 U.S.C. §1692k(a)(2)(A);
21
22 c. All reasonable attorneys' fees, witness fees, court costs and
23 other litigation costs incurred by Plaintiff pursuant to 15 U.S.C.
24 §1693k(a)(3); and
25
26 d. Any other relief deemed appropriate by this Honorable Court.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, LENESE ROGERS, demands a jury trial in this case.

DATED: 04/12/12

RESPECTFULLY SUBMITTED,

KIMMEL & SILVERMAN, P.C.

By:  _____

CRAIG THOR KIMMEL

Attorney ID # 57100

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Ambler, PA 19002

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